

## SUPREME COURT PENDING CASES

*The following appeals are fully briefed and eligible for assignment by the Supreme Court in the near future.*

JAMEY MURPHY et al. v. TOWN OF DARIEN et al., SC 19983  
*Judicial District of Fairfield*

**Negligence; Wrongful Death; Railroads; Federal Preemption; Whether Federal Law Preempts State Law Claim that Railroad Negligent in Selecting Track for Train that Struck Decedent.** Kevin Murphy was waiting at the Noroton Heights train station in Darien for a train operated by the Metro-North Commuter Railroad Company (Metro-North) when he slipped on ice that had accumulated on the train platform. He fell onto the tracks and was struck and killed by a passing Metro-North train. His wife, Jamey Murphy, brought this wrongful death and loss of consortium action in her individual capacity and as executrix of her husband's estate against Metro-North and others. The plaintiff alleged that Metro-North was negligent in routing a "through train" that was not scheduled to stop at Noroton Heights onto a track adjacent to the train platform rather than onto another track away from the platform. Metro-North moved for summary judgment, claiming that the plaintiff's state common-law negligence claim was preempted by federal law. The trial court agreed and granted the motion for summary judgment. The trial court held that the plaintiff's negligence claim was preempted by the Interstate Commerce Commission Termination Act (ICCTA), which provides for exclusive federal jurisdiction over the regulation of rail transportation. The trial court determined that the plaintiff's track selection allegations involved railroad operational decisions with which the state could not interfere under ICCTA. The trial court also held that the plaintiff's claim was preempted by the Federal Railroad Safety Act, which governs railroad safety but provides that it does not preempt state common-law negligence claims that allege a violation of a federal standard of care or that involve subject matter not covered by federal law. The trial court determined that the plaintiff's claim of negligent track selection was inherently a claim of excessive train speed and that the subject of train speed was clearly governed by federal regulations. The plaintiff appeals from the judgment rendered in favor of Metro-North, and the Supreme Court will decide whether the trial court properly determined that the plaintiff's claim that Metro-North was negligent in its track selection for the through train was expressly preempted by federal law.

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COMMISSIONER OF TRANSPORTATION *v.*  
WHITE OAK CORPORATION, SC 20131  
*Judicial District of Hartford*

**Estoppel; Taxation; Whether State Estopped From Deducting Amount of Unpaid Taxes From Payment to Judgment Creditor.** White Oak Corporation was awarded \$8.4 million in damages against the Department of Transportation (DOT) in an arbitration proceeding stemming from a Bridgeport bridge project. The arbitration award was confirmed by the trial court and on appeal. In paying White Oak the judgment, the Comptroller deducted \$1.5 million for back taxes that it claimed White Oak owed the state. White Oak filed a motion seeking a determination that the judgment had not been satisfied, contending that DOT was collaterally estopped from deducting the allegedly unpaid taxes. White Oak pointed out that, in another arbitration proceeding involving White Oak and DOT, a panel of arbitrators concluded that DOT had failed to prove its claim that White Oak was delinquent in its tax obligations. The trial court denied White Oak's motion, ruling that DOT had fully satisfied the judgment and that the deduction was not precluded by principles of collateral estoppel because the issue of whether White Oak owed taxes to the state was not fully and fairly litigated in the other arbitration proceeding. Alternatively, the court ruled that DOT's independent decision to assert the claim for unpaid taxes in the other arbitration proceeding could not have any preclusive effect on the Comptroller's ability to deduct the taxes from the judgment pursuant to General Statutes § 12-39g (a), which obligates the Comptroller, in satisfying a judgment rendered against the state, to deduct the amount of the judgment creditor's unpaid taxes. White Oak appeals, claiming that the trial court wrongly determined that the deduction was not barred by principles of estoppel where, it claims, DOT had the opportunity to fully and fairly litigate the issue of White Oak's tax liability in the other arbitration. White Oak also claims that § 12-39g did not authorize the Comptroller to deduct the amount of unpaid taxes where it had already been determined in the other arbitration that White Oak was not liable for those taxes.

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*The summaries appearing here are not intended to represent a comprehensive statement of the facts of the case, nor an exhaustive inventory of issues raised on appeal. These summaries are prepared by the Staff Attorneys' Office for the convenience of the bar. They in no way indicate the Supreme Court's view of the factual or legal aspects of the appeal.*

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